

ORDINANCE NO. BID-2978

AN ORDINANCE RELATING TO THE BUSINESS IMPROVEMENT DISTRICT;
AMENDING AND REPEALING EXISTING OVERLAND PARK MUNICIPAL CODE
CHAPTER 2.14 ENTITLED “BUSINESS IMPROVEMENT DISTRICT” AND PROVIDING
SUBSTITUTE PROVISIONS THEREFOR.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK,
KANSAS:

SECTION 1. Overland Park Municipal Code Section 2.14.010 is hereby amended to read as follows:

2.14.010 Boundaries and ~~n~~Name of ~~d~~District.

A Business Improvement District, as provided for in K.S.A. 12-1781, et seq., shall be established for the Downtown Business District of the City of Overland Park, Kansas; (the “District”).

A. The boundaries of the District are legally described as follows:

Beginning at the intersection of the center lines of Newton St. and 78th Street in Section 19, Township 12 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas; thence easterly along the center line of 78th Street to a point 753.34 feet east of the center line of Metcalf Ave., said point being at the intersection of the center line of 78th St. and the northerly extension of the east line of Lot 5, Early Place, a subdivision of land in the City of Overland Park; thence southerly along said extension and along said east line and its southerly extension to a point 165 feet north of the south line of Section 20, Township 12 South, Range 25 East; thence easterly and parallel to the south line of said Section 20 to a point 800 feet east of the west line of said Section 20; thence southerly and parallel to the west line of said Section 20 to a point on the south line of said Section 20; thence westerly along said south line to a point 795 feet east of the southwest corner of said Section 20; thence southerly and parallel to the west line of Section 29, Township 12 South, Range 25 East to a point on the north line of Lot 13, Kirkbride Place, a subdivision of land in the City of Overland Park; thence westerly along said north line to the northeast corner of Lot 14, Kirkbride Place; thence southerly along the east line of said Lot 14 and its southerly extension to the center line of 80th St.; thence west along the center line of 80th St. to its intersection with the center line of Broadmoor Lane; thence south along the center line of Broadmoor Lane to its intersection with the north line of Lot 2, Conser’s Addition, a subdivision of land in the City of Overland Park; thence easterly along the north line of said Lot 2 to a point 138 feet east of the northwest corner of said Lot 2; thence southerly and parallel to the west line of said Lot 2 a distance of 320 feet; thence westerly and parallel to the north line of said Lot 2 a distance of 138 feet to the intersection with the east line of Lot 1, Conser’s Addition, a subdivision of land in the City of Overland Park; thence southerly along the east line of said Lot 1 and its southerly extension to the center line of 82nd St.; thence westerly along the center line of 82nd St. to its intersection with the center line of Travis St.; thence southerly along the center line of Travis St. to its intersection with the center line of 83rd St.; thence westerly along the center line of 83rd St. to its intersection with the southwesterly extension of the westerly line of Lot 5, Block 10, Overland Heights No. 2, a subdivision of land in the City of Overland Park; thence northeasterly along said extension and along said westerly line of Lot 5 and its northeasterly extension to a point on the center line of

Overland Park Drive; thence northwesterly along the center line of Overland Park Drive to its intersection with the center line of Valley View Dr.; thence southwesterly along the center line of Valley View Dr. to its intersection with the southeasterly extension of the southwesterly line of Lot 4, Overland Acres, a subdivision of land in the City of Overland Park; thence northwesterly along said extension and along the southwesterly line of said Lot 4 to the east corner of Lot 2, Overland Acres; thence southwesterly along the southeasterly line of said Lot 2 to the northeast corner of Lot 1, Overland Acres; thence south along the west line of said Lot 1 to the southeast corner of said Lot 1; thence west along the south line of said Lot 1 and its westerly extension to its intersection with the center line of Robinson St.; thence northerly along the center line of Robinson St. to its intersection with the center line of 81st St.; thence easterly along the center line of 81st St. to its intersection with the southerly extension of the east line of Lot 13, Block 6, Overland Park, a subdivision of land in the City of Overland Park; thence northerly to the northeast corner of Lot 24, Block 2, Overland Park; thence northerly to the southwest corner of Lot 34, Marty's First Addition to Overland, a subdivision of land in the City of Overland Park; thence westerly and along the south line of Lot 33, Marty's 1st Addition to Overland, and its westerly extension to its intersection with the center line of Newton St.; thence northerly along the center line of Newton St. to its intersection with the center line of 78th St. and the Point of Beginning.

B. The District, for the purpose of assessing the ~~business improvement~~ fBID Fee, shall be divided into ~~two~~ four tiers, legally described as follows:

1. ~~Tier 1 shall be described as follows:~~

“Tier 1—Core”

Beginning at the northeast corner of Section 30, Township 12 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas; thence southerly along the east line of said Section 30 to its intersection with the easterly extension of the north line of Lot 8, Block 3, Resurvey of Lots 1 to 18 Inclusive in Overland Hill; thence westerly to the northeast corner of Lot 32, Block 1, Resurvey of Lots 1 to 18 Inclusive in Overland Hill; thence southerly to the southeast corner of Lot 30, Block 1, Resurvey of Lots 1 to 18 Inclusive in Overland Hill; thence westerly to the southwest corner of Lot 30, Block 1, Resurvey of Lots 1 to 18 Inclusive in Overland Hill; thence southerly along the west lines of Lots 25 through 29, Block 1, Resurvey of Lots 1 to 18 Inclusive in Overland Hill to the southwest corner of Lot 25, Block 1, Resurvey of Lots 1 to 18 Inclusive in Overland Hill; thence easterly to the southeast corner of Lot 15, Block 3, Resurvey of Lots 1 to 18 Inclusive in Overland Hill; thence easterly along the extension of the south line of said Lot 15, to the intersection with the east line of Section 30, Township 12 South, Range 25 East; thence southerly along the east line of said Section 30 to the intersection with the easterly extension of the south line of Lot 1, UMB at Metcalf; thence westerly to the southwest corner of Lot 1, UMB at Metcalf; thence northwesterly to the northeast corner of Lot 8, Block 3, Overland Heights No. 2; thence westerly to the northwest corner of Lot 21, Block 3, Overland Heights No. 2; thence northwesterly to the southeast corner of Lot 2, Block 5, Overland Heights No. 2; thence westerly to the southwest corner of Lot 1, Block 5, Overland Heights No. 2; thence northerly along the west line of said Lot 1 to the northeast corner of Lot 7, Amended Plat of the Resurvey of the West ½ of Tract 10 of the Resurvey of Overland Heights; thence westerly to the northwest corner of said Lot 7; thence southwesterly to the southeast corner of Lot 1, Riley's Resurvey; thence westerly along the south line of said Lot 1 and its westerly extension to the intersection with the southeast line of Lot 7, Block's Addition; thence southwesterly along the southeast lines of Lots 7, 8 and 9, Block's Addition to the southern corner of Lot 9, Block's Addition; thence northwesterly along the southwest line of Lot 9, Block's Addition and its northwesterly extension to an intersection with the centerline of Santa Fe Drive; thence southwesterly along the

centerline of Santa Fe Drive to an intersection with the centerline of Conser Street; thence northerly along the centerline of Conser Street to an intersection with the westerly extension of the south line of Lot 13, Block 5, Overland Park; thence easterly to the southeast corner of said Lot 13; thence northeasterly and northerly along the east lines of Lots 13, 14, 15, 16 and 17, Block 5, Overland Park, to the northeast corner of said Lot 17; thence northeasterly to a point on the south line of Lot 12, Block 1, Overland Park, and 90.5 feet west of the southeast corner of said Lot 12; thence northerly to a point on the north line of Lot 11, Block 1, Overland Park, and 90.5 feet west of the northeast corner of said Lot 11; thence easterly along the north line of said Lot 11 and its easterly extension to the intersection with the centerline of Foster Street; thence northerly along the centerline of Foster Street to a point 136.36 feet north of the south line of Section 19, Range 25 East, Township 12 South; thence east a distance of 95.29 feet; thence south a distance of 21 feet; thence east a distance of 86 feet; thence north a distance of 32 feet; thence east a distance of 98.04 feet; thence south a distance of 142 feet to a point on the centerline of 79th Street; thence easterly along the centerline of 79th Street to an intersection with the centerline of Marty Street; thence northerly along the centerline of Marty Street to an intersection with the westerly extension of the south line of Lot 41, Overland Summit; thence easterly to the southeast corner of said Lot 41; thence northerly to the northwest corner of Lot 53, Overland Summit; thence easterly to the northeast corner of said Lot 53; thence southeasterly to the southwest corner of Lot 88, Overland Summit; thence easterly to the southeast corner of said Lot 88; thence northerly to the northwest corner of Lot 107, Overland Summit; thence easterly along the north line of said Lot 107 and its easterly extension to an intersection with the east line of Section 19, Township 12 South, Range 25 East; thence southerly along the east line of said Section 19 to the Point of Beginning.

~~Beginning at the intersection of the center lines of Foster St. and 79th St. on the south line of Section 19, Township 12 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas; thence northerly along the center line of Foster St. a distance of 136.36 feet; thence east a distance of 93.63 feet; thence south a distance of 21 feet; thence east a distance of 86 feet; thence north a distance of 32 feet; thence east a distance of 100 feet; thence south a distance of 142 feet to a point on the center line of 79th St.; thence easterly along the center line of 79th St. to its intersection with the center line of Marty St.; thence northerly along the center line of Marty St. to its intersection with the westerly extension of the south line of Lot 41, Overland Summit, a subdivision of land in the City of Overland Park; thence easterly along said extension and along the south line of said Lot 41 to the southeast corner of said Lot 41; thence northerly along the east line of said Lot 41 to the northwest corner of Lot 53, Overland Summit; thence easterly along the north line of said Lot 53 and its easterly extension to the east right of way line of Floyd St.; thence southerly along the east right of way line of Floyd St. to the southwest corner of Lot 88, Overland Summit; thence easterly along the south line of said Lot 88 to the southeast corner of said Lot 88; thence northerly along the east line of Lots 100, 101, 102, 103, 104, 105, 106, and 107, Overland Summit, to the northwest corner of said Lot 107; thence easterly along the north line of said Lot 107 and its easterly extension to the center line of Metcalf Ave.; thence southerly along the center line of Metcalf Ave. to its intersection with the easterly extension of the south line of Lot 1, UMB At Metcalf, a subdivision of land in the City of Overland Park; thence westerly along the south line of said Lot 1 and its westerly extension to the intersection with the center line of Floyd Street; thence northerly along the center line of Floyd Street to its intersection with the easterly extension of the south line of Lot 7, Block 3, Overland Heights No. 2, a subdivision of land in the City of Overland Park; thence westerly to the southeast corner of Lot 7, Block 3, Overland Heights No. 2; thence westerly along the south line of said Lot 7 to the southwest corner of said Lot 7; thence westerly along the south line of Lot 22, Block 3, Overland Heights No. 2 and its westerly extension to the southeast corner of Lot 25, Block 5, Overland Heights No. 2; thence north 30 feet along the east line of said Lot 5; thence westerly and parallel with the north line of said Lot 5 to a point on the west line of said Lot 5, 30 feet north of the southwest corner of said Lot 5; thence north along the west line of said Lot 5 to the northwest corner of said Lot 5; thence west along the south line of Lot 9 of the~~

~~Amended Plat Of the Resurvey Of West ½ of Tract 10 of the Resurvey Of Overland Heights, a subdivision of land in the City of Overland Park, and its westerly extension to the west right of way line of Overland Park Drive; thence northerly along the west right of way line of Overland Park Drive to the southeast corner of Lot 8, Dale's Addition No. 2, a subdivision of land in the City of Overland Park; thence northwesterly along the south line of said Lot 8 to the northeast corner of Lot 1, Block's Addition, a subdivision of land in the City of Overland Park; thence southwesterly along the southeasterly line of Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, Block's Addition, to the southeast corner of said Lot 9; thence northwesterly along the southwesterly line of said Lot 9 and its northwesterly extension to its intersection with the center line of Santa Fe Dr.; thence southwesterly along the center line of Santa Fe Dr. to its intersection with the center line of Conser St.; thence northerly along the center line of Conser St. to its intersection with the westerly extension of the north line of Lot 14, Block 1, Overland Park, a subdivision of land in the City of Overland Park; thence easterly along said extension and along the north line of Lots 14 and 11 and its easterly extension to its intersection with the center line of Foster St.; thence northerly along the center line of Foster St. to its intersection with the center line of 79th St. and the Point of Beginning.~~

2. ~~Tier 2 shall be described as follows:~~

~~“Tier 2—Fringe”~~

Beginning at the intersection of the east line of Section 19, Township 12 South, Range 25 East, and the centerline of 78th Street, in the City of Overland Park, Johnson County, Kansas; thence westerly along the centerline of 78th Street to the intersection with the centerline of Foster Street; thence southerly along the centerline of Foster Street to a point 85.0 feet south of the extension of the north line of Lot 36, Marty's 1st Addition to Overland; thence westerly to a point on the west line of said Lot 36, 85.0 feet south of the northwest corner of said Lot 36; thence southerly along the west line of said Lot 36 to the southwest corner of said Lot 36; thence westerly along the south line of Lot 35, Marty's 1st Addition to Overland and its westerly extension to the centerline of Conser Street; thence southerly along the centerline of Conser Street to the intersection with the westerly extension of the south line of Lot 13, Block 5, Overland Park; thence easterly to the southeast corner of said Lot 13; thence northeasterly and northerly along the east lines of Lots 13, 14, 15, 16 and 17, Block 5, Overland Park, to the northeast corner of said Lot 17; thence northeasterly to a point on the south line of Lot 12, Block 1, Overland Park, and 90.5 feet west of the southeast corner of said Lot 12; thence northerly to a point on the north line of Lot 11, Block 1, Overland Park, and 90.5 feet west of the northeast corner of said Lot 11; thence easterly along the north line of said Lot 11 and its easterly extension to the intersection with the centerline of Foster Street; thence northerly along the centerline of Foster Street to a point 136.36 feet north of the south line of Section 19, Range 25 East, Township 12 South; thence east a distance of 95.29 feet; thence south a distance of 21 feet; thence east a distance of 86 feet; thence north a distance of 32 feet; thence east a distance of 98.04 feet; thence south a distance of 142 feet to a point on the centerline of 79th Street; thence easterly along the centerline of 79th Street to an intersection with the centerline of Marty Street; thence northerly along the centerline of Marty Street to an intersection with the westerly extension of the south line of Lot 41, Overland Summit; thence easterly to the southeast corner of said Lot 41; thence northerly to the northwest corner of Lot 53, Overland Summit; thence easterly to the northeast corner of said Lot 53; thence southeasterly to the southwest corner of Lot 88, Overland Summit; thence easterly to the southeast corner of said Lot 88; thence northerly to the northwest corner of Lot 107, Overland Summit; thence easterly along the north line of said Lot 107 and its easterly extension to an intersection with the east line of Section 19, Range 25 East, Township 12 South; thence northerly along the east line of said Section 19 to the Point of Beginning;

and

Beginning at the intersection of the east line of Section 30, Township 12 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas with the easterly extension of the north line of Lot 8, Block 3, Resurvey of Lots 1 to 18 Inclusive in Overland Hill; thence westerly to the northeast corner of Lot 32, Block 1, Resurvey of Lots 1 to 18 Inclusive in Overland Hill; thence southerly to the southeast corner of Lot 30, Block 1, Resurvey of Lots 1 to 18 Inclusive in Overland Hill; thence westerly to the southwest corner of Lot 30, Block 1, Resurvey of Lots 1 to 18 Inclusive in Overland Hill; thence southerly along the west lines of Lots 25 through 29, Block 1, Resurvey of Lots 1 to 18 Inclusive in Overland Hill to the southwest corner of Lot 25, Block 1, Resurvey of Lots 1 to 18 Inclusive in Overland Hill; thence easterly to the southeast corner of Lot 15, Block 3, Resurvey of Lots 1 to 18 Inclusive in Overland Hill; thence easterly along the extension of the south line of said Lot 15, to the intersection with the east line of Section 30, Township 12 South, Range 25 East; thence northerly along the east line of said Section 30 to the Point of Beginning;

and

Beginning at an intersection of the east line of Section 30, Township 12 South, Range 25 East with the easterly extension of the south line of Lot 1, UMB at Metcalf, in the City of Overland Park, Johnson County, Kansas; thence westerly to the southwest corner of Lot 1, UMB at Metcalf; thence northwesterly to the northeast corner of Lot 8, Block 3, Overland Heights No. 2; thence westerly to the northwest corner of Lot 21, Block 3, Overland Heights No. 2; thence northwesterly to the southeast corner of Lot 2, Block 5, Overland Heights No. 2; thence westerly to the southwest corner of Lot 1, Block 5, Overland Heights No. 2; thence northerly along the west line of said Lot 1 to the northeast corner of Lot 7, Amended Plat of the Resurvey of the West ½ of Tract 10 of the Resurvey of Overland Heights; thence westerly to the northwest corner of said Lot 7; thence southwestery to the southeast corner of Lot 1, Riley's Resurvey; thence westerly along the south line of said Lot 1 and its westerly extension to the intersection with the southeast line of Lot 7, Block's Addition; thence southwestery along the southeast lines of Lots 7, 8 and 9, Block's Addition to the southern corner of Lot 9, Block's Addition; thence southeasterly to the southern corner of Lot 5, Riley's Resurvey; thence northeasterly along the southeastern line of said Lot 5 and its northeastern extension to an intersection with the centerline of Overland Park Drive; thence northerly along the centerline of Overland Park Drive to an intersection with the centerline of 81st Street; thence easterly along the centerline of 81st Street to an intersection with the centerline of Marty Street; thence northerly along the centerline of Marty Street to an intersection with the westerly extension of the south line of Lot 20, Block 3, Overland Heights No. 2; thence easterly along the south line of said Lot 20 to the southeast corner of said Lot 20; thence southerly to the southwest corner of Lot 9, Block 3, Overland Heights No. 2; thence easterly along the south line of said Lot 9 and its easterly extension to an intersection with the centerline of Floyd Street; thence southerly along the centerline of Floyd Street to an intersection with the centerline of Hamilton Drive; thence easterly along the centerline of Hamilton Drive and its easterly extension to an intersection with the east line of Section 30, Township 12 South, Range 25 East; thence northerly along the east line of said Section 30 to the Point of Beginning.

~~Beginning at the intersection of the center lines of Newton St. and 78th Street in Section 19, Township 12 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas; thence easterly along the center line of 78th Street to a point 753.34 feet east of the center line of Metcalf Ave., said point being at the intersection of the center line of 78th St. and the northerly extension of the east line of Lot 5, Early Place, a subdivision of land in the City of Overland Park; thence southerly along said extension and along said east line and its southerly extension to a point 165 feet north of the south line of Section 20, Township 12 South, Range 25 East; thence easterly and parallel to the south line of said Section 20 to a point 800 feet east of the west line of said Section 20; thence southerly and parallel to~~

the west line of said Section 20 to a point on the south line of said Section 20; thence westerly along said south line to a point 795 feet east of the southwest corner of said Section 20; thence southerly and parallel to the west line of Section 29, Township 12 South, Range 25 East to a point on the north line of Lot 13, Kirkbride Place, a subdivision of land in the City of Overland Park; thence westerly along said north line to the northeast corner of Lot 14, Kirkbride Place; thence southerly along the east line of said Lot 14 and its southerly extension to the center line of 80th St.; thence west along the center line of 80th St. to its intersection with the center line of Broadmoor Lane; thence south along the center line of Broadmoor Lane to its intersection with the north line of Lot 2, Conser's Addition, a subdivision of land in the City of Overland Park; thence easterly along the north line of said Lot 2 to a point 138 feet east of the northwest corner of said Lot 2; thence southerly and parallel to the west line of said Lot 2 a distance of 320 feet; thence westerly and parallel to the north line of said Lot 2 a distance of 138 feet to the intersection with the east line of Lot 1, Conser's Addition, a subdivision of land in the City of Overland Park; thence southerly along the east line of said Lot 1 and its southerly extension to the center line of 82nd St.; thence westerly along the center line of 82nd St. to its intersection with the center line of Travis St.; thence southerly along the center line of Travis St. to its intersection with the center line of 83rd St.; thence westerly along the center line of 83rd St. to its intersection with the southwesterly extension of the westerly line of Lot 5, Block 10, Overland Heights No. 2, a subdivision of land in the City of Overland Park; thence northeasterly along said extension and along said westerly line of Lot 5 and its northeasterly extension to a point on the center line of Overland Park Dr.; thence northwesterly along the center line of Overland Park Dr. to its intersection with the center line of Valley View Dr.; thence southwesterly along the center line of Valley View Dr. to its intersection with the southeasterly extension of the southwesterly line of Lot 4, Overland Acres, a subdivision of land in the City of Overland Park; thence northwesterly along said extension and along the southwesterly line of said Lot 4 to the east corner of Lot 2, Overland Acres; thence southwesterly along the southeasterly line of said Lot 2 to the northeast corner of Lot 1, Overland Acres; thence south along the west line of said Lot 1 to the southeast corner of said Lot 1; thence west along the south line of said Lot 1 and its westerly extension to its intersection with the center line of Robinson St.; thence northerly along the center line of Robinson St. to its intersection with the center line of 81st St.; thence easterly along the center line of 81st St. to its intersection with the southerly extension of the east line of Lot 13, Block 6, Overland Park, a subdivision of land in the City of Overland Park; thence northerly to the northeast corner of Lot 24, Block 2, Overland Park; thence northerly to the southwest corner of Lot 34, Marty's 1st Addition to Overland, a subdivision of land in the City of Overland Park; thence westerly along the south line of Lot 33, Marty's 1st Addition to Overland, and its westerly extension to its intersection with the center line of Newton St.; thence northerly along the center line of Newton St. to its intersection with the center line of 78th St. and the Point of Beginning, except that part described above as "Tier 1—Core."

"Tier 3"

Beginning at the intersection of the east line of Section 19, Township 12 South, Range 25 East, and the centerline of 78th Street, in the City of Overland Park, Johnson County, Kansas; thence easterly along the centerline of 78th Street to an intersection with the northerly extension of the east line of Lot 8, Early Place; thence southerly along the east line of said Lot 8 to the southeast corner of said Lot 8; thence easterly to the northwestern corner of Lot 1, Early Place; thence southerly along the easternmost line of said Lot 1 to the westernmost southwestern corner of said Lot 1; thence westerly to a point 310 feet east and 165 feet north of the southwestern corner of Section 20, Township 12 South, Range 25 East; thence south 165 feet to a point on the south line of said Section 20, 310 feet east of the southwestern corner of said Section 20; thence westerly along the south line of said Section 20 a distance of 130 feet; thence south a distance of 172.5 feet; thence east 14 feet; thence south 159.15 feet to a point on the north line of Lot 1, O'Neill Honda East; thence easterly along the north line of

said Lot 1 to the northeast corner of said Lot 1; thence southerly along the east line of said Lot 1 and its southerly extension to an intersection with the centerline of 80th Street; thence easterly along the centerline of 80th Street to an intersection with the centerline of Broadmoor Lane; thence south along the centerline of Broadmoor Lane to an intersection with the centerline of 81st Street; thence westerly along the centerline of 81st Street to an intersection with the east line of Section 30, Township 12 South, Range 25 East; thence southerly along the east line of said Section 30 to an intersection with the southeasterly extension of the centerline of Floyd Street; thence northwesterly along the centerline of Floyd Street to an intersection with the northeasterly extension of the northwest line of Lot 6, Block 4, Overland Heights No. 2; thence southwestwesterly along the northwest line of said Lot 6 to the western corner of said Lot 6; thence southeasterly along the southwest lines of Lots 6 through 10 to the northern corner of Lot 16, Block 4, Overland Heights No. 2; thence southwestwesterly along the northwest line of said Lot 16 and its southwestwesterly extension to an intersection with the centerline of Marty Street; thence northwesterly along the centerline of Marty Street to an intersection with the northeasterly extension of the southeast line of Lot 2, Overland Park Community Center; thence southwestwesterly along the southeast line of said Lot 2 to the southern corner of said Lot 2; thence northwesterly along the southwest line of said Lot 2 to an intersection with the centerline of Hamilton Drive; thence southwestwesterly along the centerline of Hamilton Drive to an intersection with the centerline of Overland Park Drive; thence northwesterly along the centerline of Overland Park Drive to an intersection with the centerline of Valley View Drive; thence southwestwesterly along the centerline of Valley View Drive to an intersection with the centerline of Newton Avenue; thence northwesterly along the centerline of Newton Avenue to an intersection with the centerline of Santa Fe Drive; thence southwestwesterly along the centerline of Santa Fe Drive to an intersection with the centerline of Newton Street; thence northerly along the centerline of Newton Street to an intersection with the centerline of 81st Street; thence easterly along the centerline of 81st Street to an intersection with the southerly extension of the west line of Lot 12, Block 6, Overland Park; thence northerly along the west lines of Lots 1 through 12, Block 6, and Lots 1 through 12, Block 1, Overland Park, to the northwest corner of Lot 1, Block 1, Overland Park; thence northerly to the southeast corner of Lot 33, Marty's 1st Addition to Overland; thence westerly along the south line of said Lot 33 and its westerly extension to an intersection with the centerline of Newton Street; thence north along the centerline of Newton Street to an intersection with the centerline of 78th Street; thence easterly along the centerline of 78th Street to an intersection with the centerline of Foster Street; thence southerly along the centerline of Foster Street to a point 85.0 feet south of the extension of the north line of Lot 36, Marty's 1st Addition to Overland; thence westerly to a point on the west line of said Lot 36, 85.0 feet south of the northwest corner of said Lot 36; thence southerly along the west line of said Lot 36 to the southwest corner of said Lot 36; thence westerly along the south line of Lot 35, Marty's 1st Addition to Overland and its westerly extension to the centerline of Conser Street; thence southerly along the centerline of Conser Street to the intersection with the centerline of Santa Fe Drive; thence northeasterly along the centerline of Santa Fe Drive to an intersection with the northwesterly extension of the southwest line of Lot 9, Block's Addition; thence southeasterly to the southern corner of said Lot 9; thence southeasterly to the southern corner of Lot 5, Riley's Resurvey; thence northeasterly along the southeastern line of said Lot 5 and its northeastern extension to an intersection with the centerline of Overland Park Drive; thence northerly along the centerline of Overland Park Drive to an intersection with the centerline of 81st Street; thence easterly along the centerline of 81st Street to an intersection with the centerline of Marty Street; thence northerly along the centerline of Marty Street to an intersection with the westerly extension of the south line of Lot 20, Block 3, Overland Heights No. 2; thence easterly along the south line of said Lot 20 to the southeast corner of said Lot 20; thence southerly to the southwest corner of Lot 9, Block 3, Overland Heights No. 2; thence easterly along the south line of said Lot 9 and its easterly extension to an intersection with the centerline of Floyd Street; thence southerly along the centerline of Floyd Street to an intersection with the centerline of Hamilton Drive; thence easterly along the centerline of Hamilton Drive and its easterly extension to an intersection with the east line of

Section 30, Township 12 South, Range 25 East; thence northerly along the east line of said Section 30 to the northeast corner of said Section 30; thence northerly along the east line of Section 19, Township 12 South, Range 25 East, to the Point of Beginning.

“Tier 4”

Beginning at an intersection of the centerline of 78th Street with the northerly extension of the east line of Lot 8, Early Place, in the City of Overland Park, Johnson County, Kansas; thence southerly along the east line of said Lot 8 to the southeast corner of said Lot 8; thence easterly to the northwestern corner of Lot 1, Early Place; thence southerly along the easternmost line of said Lot 1 to the westernmost southwestern corner of said Lot 1; thence westerly to a point 310 feet east and 165 feet north of the southwestern corner of Section 20, Township 12 South, Range 25 East; thence south 165 feet to a point on the south line of said Section 20, 310 feet east of the southwestern corner of said Section 20; thence westerly along the south line of said Section 20 a distance of 130 feet; thence south a distance of 172.5 feet; thence east 14 feet; thence south 159.15 feet to a point on the north line of Lot 1, O’Neill Honda East; thence easterly along the north line of said Lot 1 to the northeast corner of said Lot 1; thence southerly along the east line of said Lot 1 and its southerly extension to an intersection with the centerline of 80th Street; thence easterly along the centerline of 80th Street to an intersection with the southerly extension of the west property line of Lot 13, Kirkbride Place; thence northerly along the west property line of said Lot 13 to the northwest corner of said Lot 13; thence westerly along the north line of said Lot 13 to a point 795 feet east of the west line of Section 29, Township 12 South, Range 25 East; thence northerly and parallel to the west line of said Section 29 to an intersection with the north line of said Section 29; thence easterly along the north line of said Section 29 to a point 800 feet east of the northwest corner of said Section 29; thence northerly and parallel to the west line of Section 20, Township 12 South, Range 25 East, to a point 165 feet north of the south line of said Section 20; thence westerly and parallel to the south line of said Section 20 to an intersection with the southerly extension of the east line of Lot 5, Early Place; thence northerly along the east line of said Lot 5 and its extension to an intersection with the centerline of 78th Street; thence westerly along the centerline of 78th Street to the Point of Beginning;

and

Beginning at the intersection of the centerline of 81st Street with the east line of Section 30, Township 12 South, Range 25 East; thence southerly along the east line of said Section 30 to an intersection with the southeasterly extension of the centerline of Floyd Street; thence northwesterly along the centerline of Floyd Street to an intersection with the northeasterly extension of the northwest line of Lot 6, Block 4, Overland Heights No. 2; thence southwesterly along the northwest line of said Lot 6 to the western corner of said Lot 6; thence southeasterly along the southwest lines of Lots 6 through 10 to the northern corner of Lot 16, Block 4, Overland Heights No. 2; thence southwesterly along the northwest line of said Lot 16 and its southwesterly extension to an intersection with the centerline of Marty Street; thence northwesterly along the centerline of Marty Street to an intersection with the northeasterly extension of the southeast line of Lot 2, Overland Park Community Center; thence southwesterly along the southeast line of said Lot 2 to the southern corner of said Lot 2; thence northwesterly along the southwest line of said Lot 2 to an intersection with the centerline of Hamilton Drive; thence southwesterly along the centerline of Hamilton Drive to an intersection with the centerline of Overland Park Drive; thence southeasterly along the centerline of Overland Park Drive to an intersection with the northeasterly extension of the northwest line of Lot 5, Block 10, Overland Heights No. 2; thence southwesterly along the northwest line of said Lot 5 and its extension to an intersection with the centerline of 83rd Street; thence easterly along the centerline of 83rd Street to an

intersection with the centerline of Travis Street; thence northerly along the centerline of Travis Street to an intersection with the centerline of 82nd Street; thence easterly along the centerline of 82nd Street to an intersection with the southerly extension of the east line of Lot 1, Conser's Addition; thence northerly along the east line of said Lot 1 and its extension to a point 300 feet north of the southeast corner of said Lot 1, said point also being on the south line of Lot 1, Cypress Springs; thence northerly along the lot line of Lot 1, Cypress Springs to a corner 138 feet west of the southeast corner of said Lot 1; thence easterly along the south line of said Lot 1 to the southeast corner of said Lot 1; thence northerly along the east line of said Lot 1 and its extension to an intersection with the centerline of 81st Street; thence west along the centerline of 81st Street to the Point of Beginning;

and

Beginning at the intersection of the centerline of Valley View Drive and the centerline of Newton Avenue; thence northwesterly along the centerline of Newton Avenue to an intersection with the centerline of Santa Fe Drive; thence southwest along the centerline of Santa Fe Drive to an intersection with the centerline of Newton Street; thence northerly along the centerline of Newton Street to an intersection with the centerline of 81st Street; thence westerly along the centerline of 81st Street to an intersection with the centerline of Robinson Street; thence south along the centerline of Robinson Street to an intersection with the westerly extension of the south line of Lot 1, Overland Acres; thence easterly along the south line of said Lot 1 and its extension to the southeast corner of said Lot 1; thence northerly along the east line of said Lot 1 to the southern corner of Lot 2, Overland Acres; thence northeasterly along the southeast line of said Lot 2 to the eastern corner of said Lot 2; then southeasterly along the north line of Lot 5, Overland Acres, and its southeasterly extension to an intersection with the centerline of Valley View Drive; thence northeasterly along the centerline of Valley View Drive to the Point of Beginning.

SECTION 2. Overland Park Municipal Code Section 2.14.020 is hereby amended to read as follows:

2.14.020 Services to be provided.

The ~~Downtown Business Improvement~~ District shall be created to provide for the administration and financing of Services to the ~~b~~Businesses in the ~~Improvement~~ District ~~the services and activities as~~ adopted by the Governing Body ~~of the City of Overland Park~~ in the annual City budget. ~~Such s~~The Services ~~and activities~~ may include and are limited to: administration, operating expenses, general downtown promotions, open air markets, transportation, parking, streets, street lighting, traffic controls, refuse collection and disposal, security, snow removal, beautification, parks and recreation, programs for special populations and capital improvements, which do not require multi-year funding ~~all for the area described in Section 2.14.010 herein~~ and that are not otherwise provided for in the annual City budget.

~~Nothing herein shall prohibit t~~The City ~~from contracting~~ may contract with a not-for-profit corporation or any other entity for the provision of specified sServices ~~within the District; and the City may use the BID Fees to finance the same.~~

SECTION 3. Overland Park Municipal Code Section 2.14.030 is hereby amended to read as follows:

2.14.030 Methods uUsed to finance sServices.

The ~~Services activities described in Section 2 of this ordinance~~ shall be financed through a business improvement service fee assessed by the City (the “BID Fee”), established by annual ordinance, against the bBusinesses within the dDistrict according to reasonable classification based on any or all of the following factors:

- 1A. Type of bBusiness
- 2B. ~~Total Building or land~~ square footage
- 3C. Location within defined tiers within of the dDistrict
- D. Amount of space used for business purposes

SECTION 4. Overland Park Municipal Code Section 2.14.040 is hereby amended to read as follows:

2.14.040 ~~Downtown Business Improvement District~~BID Advisory Board.

The Downtown Business Improvement District Advisory Board (the “BID Advisory Board”) is hereby established in accordance with the provisions of the Business Improvement District Act. The duties of the BID Advisory Board shall be:

- 1A. To monitor and oversee the provision of sServices ~~financed by Downtown Business Improvement District fees~~ the BID Fees.
- 2B. To submit to the Governing Body ~~of the City of Overland Park~~ the following recommendations:
 - 1. ~~not later than May 15th of each year, a~~ A recommended program of sServices to be performed or provided within the dDistrict during the coming ~~calendar assessment~~ year, and a proposed budget to accomplish ~~these objectives~~ the same. (To be submitted no later than May 15th of each year.)
 - 1.2. ~~and a~~ A proposed schedule of ~~fees~~ the BID Fees for assessment on the bBusinesses within the dDistrict for ~~these the s~~ Services. (To be submitted no later than November 1st of each year.) ~~The assessment per business shall not increase from year to year without a public hearing to consider the increase.~~
- 3C. To act as an appeals board for any disputes concerning methods of the assessment ~~and fees to of the BID Fee on b~~ Businesses within the dDistrict. Such appeals shall be submitted to the bCity Clerk ~~and~~ in writing. The written appeal must provide the basis of the appeal and the correction being requested. Unless otherwise coordinated with the appellant, the b BID Advisory Board shall ~~provide a written response to consider~~ the appeal no later than sixty (60) days following receipt of the appeal ~~by the Director of Planning and Development Services for the City.~~

SECTION 5. Overland Park Municipal Code Section 2.14.050 is hereby amended to read as follows:

2.14.050 Number, ~~method of a~~Appointment, and ~~t~~Terms of BID aAdvisory bBoard.

There shall be seven (7) board members of the ~~Downtown Business Improvement District~~BID Advisory Board who shall be appointed by the Mayor with consent of the City Council~~of the City of Overland Park~~. MBoard members shall be representative of bBusinesses located within the dDistrict. Nothing herein shall prohibit the board members~~of the advisory board~~ from also serving on the board of directors of a not-for-profit corporation with which the City may contract to provide specified services within the dDistrict;~~; but provided, however,~~ no board member ~~of the board~~ shall, directly or indirectly, receive compensation for service on the board.

Of the board members first appointed to the aBID a advisory bBoard, four (4) shall be appointed for a term of one (1) year and three (3) shall be appointed for two (2) years. On the expiration of the term of each board ~~board~~ member, subsequent terms shall be for a period of two (2) years. No person shall be a board member ~~of the advisory board~~ for a period in excess of six (6) consecutive years.

SECTION 6. Overland Park Municipal Code Section 2.14.060 is hereby amended to read as follows:

2.14.060 Definitions.

- A. ~~Commercial~~ “Business” ~~— es. The term “Commercial businesses” as used in this ordinance shall mean any individual, sole proprietorship, corporation, partnership or other organization engaged in the exchange, purchase, sale, or trade~~provision or manufacturing of any commodities, products,~~merchandise~~ or services ~~for profit; provided, however, “Business” shall exclude the Exemptions defined below, except those specifically exempted under this ordinance. Each separate business name and address shall be deemed a separate commercial business even though it may be subject to the same ownership. Commercial~~ bThe term “Business” shall include, but not be limited to, the following types of businesses:

- Department stores
- Apparel and accessories
- Furniture and appliances _____
- Office supply and quick copy
- Home furnishings _____
- Food, eating and drinking
- General merchandise and other retail trade _____
- Finance investment with footage
- Automobile dealerships _____
- Real estate
- Insurance _____
- Employment services
- Communications _____
- Repair
- Utilities _____
- Industrial manufacturing
- Wholesale warehousing _____
- Machinery/equipment
- Automotive _____
- Construction services

Entertainment _____
Medical and health related
Legal services _____ Architectural/engineering
Accounting _____
Educational
Barber and beauty shops

The term “Business” shall also include:

1. The ownership of ~~Unoccupied~~ buildings or structures, or parts thereof, which are unoccupied and which are held by their owner or owners for investment purposes, for sale or lease. Each such building or structure which is wholly unoccupied, or that part of such building or structure which is unoccupied, if the building or structure is partially occupied, shall be considered to be a single ~~commercial b~~Business.
2. The ownership of vacant commercial land, which is held for investment purposes, for sale or lease, or for development purposes.
- ~~1.3.~~ A multi-unit residential Business, meaning a Business providing residential living space of at least 10 apartments, units or rooms under common ownership. Examples, include, but are not limited to, apartment complexes, condominium complexes, independent and assisted living facilities (such as for the elderly or disabled), nursing homes and similar facilities.

B. “Business Area” shall mean:

1. For Businesses that occupy an entire building, “Business Area” shall mean the gross building floor area, excluding any attic space or basement space that is not designed or used for normal public occupancy.
2. For Businesses that occupy a portion of a building along with other Businesses, “Business Area” shall mean the gross floor area leased or under the direct control of that Business, excluding: (a) any attic space or basement space that is not designed or used for normal public occupancy or (b) any floor area devoted to shared use by multiple tenants such as hallways or stairways.
3. For building owners with vacant floor area, “Business Area” shall mean the gross floor area of the building that is configured for or reasonably suited to being occupied by a Business, whether or not such space is actively being marketed as being for lease or for sale.
4. For vacant commercial land, “Business Area” shall be equal to two percent of the contiguous land area under common ownership.
5. For a multi-unit residential Business, “Business Area” shall be equal to two percent of the contiguous land area on which the multi-unit residential Business project is

located.

C. “BID Fee” shall mean a business improvement service fee assessed on Businesses as established by Section 2.14.030, in the amounts established under by Section 2.14.070, and as administered underby Section 2.14.080.

D. “District” – shall mean the Downtown Business District of the City of Overland Park, Kansas, the boundaries of which are set forth in Section 2.14.010.

~~BE.~~ “ExemptionsNon-Commercial-Businesses” – shall include all property owned or used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes. “Exemptions” shall also include. The term “non-commercial businesses” as used in this ordinance, shall mean any individual, sole proprietorship, corporation, partnership, or other organization, that operates for a state, county or municipal purpose, or on a not-for-profit basis for any literary, educational, scientific, religious, benevolent or charitable purpose. Evidence of such non-profit status shall include but not be limited to exemption from state property taxes, or designation by the Federal Internal Revenue Service as a Section 501(C) organization. Non-commercial business shall include but not be limited to the following businesses:

Governmental

Religious

Educational

Charitable

Business/civic/labor associations

Residential

F. “Services” shall mean governmental functions, programs, activities, facilities improvements and other services which the City is authorized to perform or provide, as identified further in Section 2.14.020.

SECTION 7. Overland Park Municipal Code Section 2.14.070 is hereby amended to read as follows:

2.14.070 Methods of Assessment.

A. The owners of each Business within the District shall be assessed a BID Fee for each assessment year. Each assessment year shall run from December 1st to November 30th of the following year. The BID Fee assessment shall be comprised of a base fee plus an area fee; provided, however, each tier shall have a maximum fee to be assessed. The owners of all commercial businesses within the district shall be assessed a business improvement service fee for 1997 calendar year according to the following:

~~The minimum fee for each commercial business within tier 1 shall be not less than \$126; the minimum fee for each commercial business within tier 2 shall be not less than \$115.~~

~~The maximum fee for each commercial business within tier 1 shall not exceed \$1,200; the maximum fee for each commercial business within tier 2 shall not exceed \$1,100.~~

~~Each commercial business within tier 1 shall be assessed at a rate of \$0.19, and each commercial business within tier 2 shall be assessed at a rate of \$.17, per leased or owned square foot of floor area as measured from the inside structural walls.~~

~~B. A fee assessment ordinance shall be adopted for each subsequent calendar year in accordance with the requirements of Kansas Statutes.~~

B. A BID Fee assessment ordinance shall be adopted for each assessment year in accordance with the requirements of the Kansas Statutes. The BID Fee assessment ordinance shall establish for the assessment year: (1) a base fee for each tier; (2) an area fee for each tier; and (3) a maximum fee for each tier. The BID Fee shall not increase from year to year without a public hearing to consider the increase.

C. For the purposes of the BID Fee assessment:

1. Two or more Businesses under common ownership located on the same or contiguous parcels of land under common ownership shall be considered one Business.
2. Two or more Businesses under common ownership located in the same building or structure or portion thereof shall be considered one Business.
3. A Business located on multiple parcels of land that are not contiguous shall be considered separate Businesses.
4. Businesses that are split by a tier boundary shall be considered to be in the tier which contains the majority of the property on which the Business is located

SECTION 8. Overland Park Municipal Code Section 2.14.080 is hereby amended to read as follows:

2.14.080 Administration.

A. Annual BID Fee Assessment.

1. The City shall assess the BID Fee on or about December 1st. The BID Fee is due upon issuance of the assessment and shall be considered past due if not paid on or before January 15th.
2. Property owners with vacant leasable space as of December 1st shall be assessed the BID Fee as set forth in Subsection A1. above.
3. If a Business was not assessed on or about December 1st but it is later determined that

the Business was located in the District at such time, the City shall assess the Business the BID Fee. The BID Fee is due upon issuance of the assessment and shall be considered past due if not paid on or before 30 days from the date of assessment. Provided, however, if the BID Fee was assessed to the property owner, the property owner shall remain responsible for the BID Fee unless the property owner notifies the City of the Business on or before January 15th.

4. When assessments for the BID Fee are prepared, all unpaid past due amounts (for outstanding BID Fees, late fees and costs) shall be added to the amount of the current assessment.

B. Installment Option. A Business may elect to pay its BID Fee in installments. In order to exercise the installment option, at least half of the BID Fee must be paid on or before January 15th. Any balance due must be paid on or before June 1, and shall be considered past due after June 1st. (If assessed pursuant to subsection A3., at least half of the BID Fee must be paid within 30 days from the date of assessment and the balance due on or before June 1st.)

C. Proration of BID Fee.

1. If a new Business locates within the District after December 1st, but prior to or on June 1st, then said Business shall be assessed one-half of the BID Fee. The BID Fee is due upon issuance of the assessment and shall be considered past due if not paid on or before 30 days from the date of assessment. Provided, however, said Business shall receive credit for any BID Fee paid for the June 1st to December 1st period by the prior Business in the same location (or by the property owner when applicable). Any unpaid BID Fee will be the joint and several responsibilities of the new Business and the previously assessed Business (or property owner when applicable), but in no event will duplicate fees be collected.

2. If a new Business locates within the District after June 1st, then said Business shall not be assessed a BID Fee until the next December 1st billing cycle.

3. If a Business vacates its location within the District prior to June 1st and a new Business does not occupy said location prior to or on June 1st (as described in Subsection C1. above), then the property owner will be assessed one-half of the BID Fee. The BID Fee is due upon issuance of the assessment and shall be considered past due if not paid on or before 30 days from the date of assessment. Provided, however, the property owner shall receive credit for any BID Fee paid for the June 1st to December 1st period by the prior Business in the location. Any unpaid BID Fee will be the joint and several responsibilities of the previously assessed Business and the property owner, but in no event will duplicate fees be collected.

For the purposes of this Subsection, the term “new Business” shall refer to a Business that begins a new period of operation at a location within the District.

- D. Late Fee. A late fee of 25 percent shall be assessed when any BID Fee becomes past due.
- E. Refund. No refunds for any BID Fee paid will be given to any Business properly assessed a BID Fee, regardless of when the Business vacates the premises and whether or not a new Business subsequently assumes that location during the balance of the year for which the BID Fee was paid.
- F. Appeal. If a Business feels that it received an assessment in error or that the amount of the assessment was miscalculated or based upon incorrect information, then the Business may submit a written appeal to the City Clerk's office on or before December 31st (or within 30 days of the initial assessment). The written appeal must provide the basis of the appeal, the correction being requested and an address or email address for the appellant to receive the City's response. The written appeal shall be reviewed by the Director of Finance, the Director of Planning & Development Service and the City Attorney (or their designees). Following such review, the City will send either a revised assessment if the appeal is determined to have merit, or a written notice stating that the appeal has been denied. The Business shall then have 30 days from the date of the revised assessment or the written notice to make payment before such amount is considered past due, or alternatively, to file an appeal with the BID Advisory Board pursuant to O.P.M.C. Section 2.14.040 C.
- G. Collection. If it becomes necessary to utilize the services of a collection agency, attorney or court action in order to collect any outstanding BID Fee, late fees or costs due and owing from a Business, the cost of said collection agency, attorney or court action shall be added to the amount due to the City and shall become a legal obligation of said Business.
- H. Agent. The City may use BID Fees to contract with any person or organization, including, but not limited to, the not-for-profit corporation with which the City contracts for other specified services within the District, to do the tasks of compiling a list of Businesses in the District, determining their respective floor area or land area and/or to assist with the assessment or collection of the BID Fee.
- A. ~~Businesses to be assessed an annual business improvement service fee shall be surveyed by the City of Overland Park, Kansas (hereinafter "City"), in November and billed by the City prior to December 1, except as otherwise provided in this Section. The City may contract with any person, including, but not limited to, the not for profit corporation with which the City contracts for other specified services within the district, to do the business surveying specified in this Section. Businesses shall either pay the fee in one installment due January 1, or may elect to pay the fee in two equal installments, the first installment due January 1 and the second installment due June 1, to the City of Overland Park, 8500 Santa Fe Drive, Overland Park, Kansas, 66212, c/o City Clerk. There shall be no grace period for any business. If the business elects to make only one installment payment, and the fee is not paid by February 15, there shall be added to the fee a late charge of twenty five per cent (25%) of that fee, and payment in full must be made of the entire amount. If the business intends to elect to make two equal installment payments, the first payment must be paid by February 15. If the first equal installment payment is not received by that date, that business may not~~

~~elect a two-payment option, and payment in full must be made of the full installment and penalty. If the business elects to make two equal payments, and the first installment is timely paid but the second payment is not paid by June 15, a late charge of twenty-five per cent (25%) of that installment will be imposed, and payment in full must be made of that installment and penalty. When invoices for the current fees are sent each year, all unpaid past due amounts will be added to the amount of the current invoice and the new billing will be for a cumulative amount of all outstanding fees, penalties and costs. If it becomes necessary to utilize the services of a collection agency, a collection attorney or court action in order to collect all outstanding obligations then due and owing, including, without being limited to, all overdue fees, penalties, costs and other charges, then the actual cost to the City of said collection agency, collection attorney or court costs shall be added to the amount due the City, shall become part of the final court judgment, if court action is necessary, and all such amounts shall be a legal obligation of the business being assessed.~~

- ~~B. The following standards shall apply to the assessment, collection and prorating of fees:~~
- ~~1. If a new business becomes located within the District after the annual survey and assessment period, but prior to or on January 1 of a calendar year, that business will be assessed a full year's fee for the forthcoming year; provided, however that if a previous business at that location was assessed a fee, and paid the fee, or portion thereof, for the forthcoming year before vacating the premises, a credit will be given to the new business for that payment. Any unpaid fees will be the joint and several responsibilities of the previously assessed business and the new business, but in no event will duplicate fees be collected.~~

- ~~2. If a new business becomes located within the District after January 1 but prior to July 1 that new business shall be assessed one half the annual fee for the period from July 1 through December 31 of that year. If a previous business at that location was assessed a fee, and paid that fee or a portion thereof, for that period between July 1 and December 31, a credit will be given to the new business for that payment. Any unpaid fees will be the joint and several responsibilities of the previously assessed business and the new business, but in no event will duplicate fees be collected.~~
- ~~3. If a new business becomes located within the District after July 1, that new business will not be assessed any fees for the balance of the year. The fees for that year, if any have been assessed to a previous business, shall remain the sole responsibility of the previous business.~~
- ~~4. No refunds for fees paid will be given to any business properly assessed a fee, regardless of when they vacate the premises and whether or not a new business subsequently becomes located within that location during the balance of the year for which said fees were paid.~~
- ~~5. For the purposes of this Section, the term "new business" shall refer to a business that begins a new period of operation at a location within the District. If a lessee business vacates the premises or goes out of business after January 1, the fact that if, during the balance of that year only, the owner holds the property for lease, sale or investment for the balance of that year shall not require the owner to pay an assessment for the balance of that year. If the premises continues to be held for lease, sale or investment after December 30 of that year, an assessment and billing of the owner shall take place as specified in this Chapter.~~
- ~~C. To assist in the administration of business improvement service fees, the Downtown Business Improvement District Advisory Board shall meet regularly with the administrative staff hired through such fees.~~
- ~~D. The City may use business improvement service fees to contract with a not for profit corporation to provide specified services within the District.~~
- ~~E. The Downtown Business Improvement District Advisory Board or its administrative staff hired through the assessed service fees shall submit to the City Clerk, no later than November 1, a complete list of all businesses to be assessed, their address, gross square footage of leased or owned floor area and fee amount.~~

SECTION 9. Overland Park Municipal Code Section 2.14.090 is hereby amended to read as follows:

2.14.090 Protest Petition.

In the event a protest petition is filed as ~~allowed in provided for by~~ K.S.A. 12-1781 ~~et. seq.9~~, the voting system shall be one vote per each Business assessed, except ownership of unoccupied real estate which shall have one vote per separate location. Separate location shall be defined as each individual building with unoccupied real estate.

SECTION 10. Overland Park Municipal Code Section 2.14.100 is hereby amended to read as follows:

2.14.100 Enforcement.

- A. The amount of any unpaid ~~BID Fee~~fee, together with any late ~~charges~~fees, the payment of which is required hereunder, shall constitute a debt due to the City. No civil judgment shall bar or prevent a criminal prosecution for each and every violation of this ~~Chapter~~Ordinance.
- B. It shall be unlawful for any person who is the owner, manager operator, or person in control of any Business required to pay a ~~BID Fee~~ fee pursuant to this ~~Ordinance~~Chapter to continue to operate said Business after ~~said fee~~the BID Fee, ~~and/or~~ any late ~~charges~~fee, has become past due and remains unpaid. Any person convicted of a violation of this Section shall be fined in a sum no greater than \$500.00 and assessed court costs as determined by the court. Each day of said violation shall constitute a separate offense.

SECTION 11. Overland Park Municipal Code Section 2.14.110 is hereby amended to read as follows:

2.14.110 Validity.

Should any section, subsection, paragraph, clause or provision of this ~~Chapter ordinance~~ be declared by a court of competent jurisdiction to be invalid or unconstitutional, the same shall not affect the validity of the ~~Chapter ordinance~~ as a whole or any part thereof, other than the part so declared to be invalid or unconstitutional. The Governing Body ~~of the City of Overland Park, Kansas,~~ hereby declares that it would have passed this ~~Chapter ordinance~~ and each section, subsection, paragraph, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, or phrases be declared invalid.

SECTION 12. Existing Overland Park Municipal Code Section 2.14.010, 2.14.020, 2.14.030, 2.14.040, 2.14.050, 2.14.060, 2.14.070, 2.14.080, 2.14.090, 2.14.100, and 2.14.110 are hereby repealed.

SECTION 13. This ordinance shall take effect and be in force from and after its publication in an official City newspaper.

PASSED by the City Council this _____ day of November, 2012.

APPROVED by the Mayor this ____ day of November, 2012.

Carl Gerlach, Mayor

ATTEST:

Marian Cook
City Clerk

APPROVED AS TO FORM:

Stephen B. Horner
Senior Assistant City Attorney